

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations
(Chillicothe, Dublin, Hillsboro and
Marion, Ohio)

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MB Docket No. 02-266
RM-10557

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AUG 29 2005

To: Office of the Secretary
Attn: Media Bureau

Federal Communications Commission
Office of Secretary

REPLY TO COMMENT

Citicasters Licenses, L.P., licensee of Station WMRN-FM, Marion, Ohio, and Clear Channel Broadcasting Licenses, Inc., licensee of Station WSRW-FM, Hillsboro, Ohio (jointly "Clear Channel"), by their counsel, hereby reply to the Comment filed on August 16, 2005, by Sandyworld, Inc. Sandyworld, at this late date, and without justification for timely filing comments, now has filed a Comment in this proceeding that was not accompanied by a motion for its acceptance.¹ Therefore, the Bureau must dismiss it without consideration. See 47 C.F.R. § 1.106.

1. In addition to procedural defects, the Comment does not provide a substantive basis for overturning the Bureau's decision in this proceeding. The Comment attacks the Bureau's allotment decision but Sandyworld does not provide any reasoned basis for its attack. Rather, Sandyworld appears to have a philosophical problem with the Commission's allotment priorities and the Tuck policy. Such concerns are more appropriately addressed in a policy rule making proceeding rather than this individual matter.

¹ Comments and/or oppositions were due by July 7, 2005.

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2. Sandyworld also assumes, without basis, that the allegation made throughout this proceeding by the Committee for Competitive Columbus Radio (the "Committee") that there is a multiple ownership rule violation is valid. In fact, as already addressed in Clear Channel's "Reply to Opposition to Supplement" and other pleadings, the Committee's allegation is without merit, and as demonstrated by Clear Channel, the relocation of Station WMRN-FM to Dublin is in compliance with the Commission's multiple ownership rules.

3. Sandyworld also discusses in its Comment the major modification of its construction permit for translator W294AH, Columbus, Ohio.² Not only is Sandyworld's discussion irrelevant here, it is also inaccurate. What is the case is that two petitions to deny were filed in 1996 by the unaffiliated prior owners of WAZU(FM) (then WAHC), Circleville, Ohio (then owned by Tel Lease, Inc.) and WMRN-FM, Marion, Ohio (then owned by Marion Radio Company). The petitions to deny asserted, *inter alia*, that the proposed major modification of W294AH was in violation of Section 74.1204(f) of the Commission's Rules.

4. In March 1998, the Audio Services Division stated in a letter decision that the petitions to deny did not provide convincing evidence of listeners within the proposed translator's contour nor that the grant would result in interference to such listeners, and consequently dismissed the petitions and granted Sandyworld's modification application.³ In the interim, WAZU(FM) and WMRN-FM had been acquired by Citicasters Co. then a subsidiary of Jacor Communications, Inc.⁴ In April 1998, Citicasters Co. filed a Petition for Reconsideration of the

² File No. BMPFT-19960502TD.

³ Letter of James D. Bradshaw, Supervisory Engineer, Audio Services Division to Sandyworld, Inc., et al. (March 26, 1998).

⁴ Station WMRN-FM was acquired by Clear Channel when it assumed control of Citicasters Co. from Jacor Communications, Inc. on May 4, 1999. See BTCCT-19981016GP. Clear Channel has never owned Station WAZU(AM) because Citicasters Co. assigned it to CBS Radio Licensee Inc. on August 10, 1998. See BALH-19980605C8.

Division decision, in which it provided additional evidence that listeners of WAZU(FM) would be adversely affected by the modification of W294AH. In its Comment in this proceeding, Sandyworld fails to mention what happened next: by letter decision dated November 24, 1998, the Audio Services Division found the listenership/interference evidence regarding WAZU(FM) to be convincing, granted the Petition for Reconsideration filed by Citicasters Co., rescinded the construction permit BMPFT-19960502TD, and dismissed Sandyworld's major modification application.⁵ It was not until Sandyworld proffered a technical modification to its antenna system designed to reduce the interference from W294AH to WAZU(FM) that the Division, on April 26, 1999, finding that the technical modification rectified the violation, reinstated and granted Sandyworld's modification application.⁶ At that time, Citicasters Co. no longer owned WAZU(FM), and neither it, nor the subsequent owner of WAZU(FM), appealed the 1999 decision.

5. As to Sandyworld's other concerns regarding the operation of and investment in its translator, all licensees of translators are aware that such authorizations are for secondary services subject to discontinuance to protect full service stations. *See* 47 C.F.R. § 74.1203. Finally, Sandyworld also asserts that Clear Channel has caused "the elimination of my FM translator." This is simply not true. According to CDBS, Sandyworld's FM translator (W294AH) is still licensed to operate at Columbus, Ohio.

⁵ *Letter of Dennis Williams, Assistant Chief, Audio Services Division to Sandyworld, Inc., et al.* (November 24, 1998).

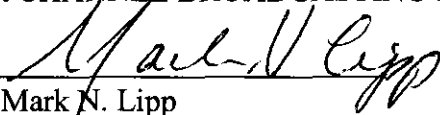
⁶ *Letter of James D. Bradshaw, Supervisory Engineer, Audio Services Division to Sandyworld, Inc.* (April 26, 1999).

For the foregoing reasons, Clear Channel requests that the Commission dismiss Sandyworld, Inc.'s Comment without consideration.

Respectfully submitted,

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August 29, 2005

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CERTIFICATE OF SERVICE

I, Scott Woodworth, in the law firm of Vinson & Elkins, do hereby certify that I have on this 29th day of August, 2005, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**Reply to Comment**" to the following:

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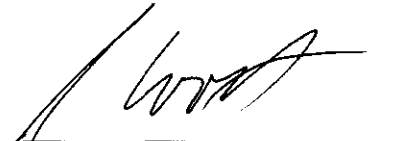
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